

Name NICOLE R. AZOCAR PRO SE  
Street Address 5803 FILBERT AVENUE  
City and County ORANGEVALE, SACRAMENTO COUNTY  
State and Zip Code CALIFORNIA 95662  
Telephone Number 916-792-2266

**FILED**

MAY 10 2023

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY [Signature]  
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

NICOLE R. AZOCAR PRO SE

*(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)*

**-against-**

SAM'S WEST, INC. D/B/A SAM'S CLUB  
WALMART, INC. TEKNOR APEX HOSE  
TEKNOR APEX COMPANY

*(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)*

**Complaint for a Civil Case**

Case No. 2:23 - CV 0872 - DJC AC PS

*(to be filled in by the Clerk's Office)*

Jury Trial: ☐ Yes ☒ No  
*(check one)*

**I. The Parties to This Complaint**

**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>NICOLE R. AZOCAR PRO SE</u>
Street Address	<u>5803 FILBERT AVENUE</u>
City and County	<u>ORANGEVALE, SACRAMENTO COUNTY</u>
State and Zip Code	<u>CALIFORNIA 95662</u>
Telephone Number	<u>916-792-2266</u>

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

**Defendant No. 1**

Name	<u>SAM'S WEST, INC. D/B/A SAM'S CLUB</u>
Job or Title (if known)	<u></u>
Street Address	<u>2101 SE SIMPLE SAVINGS DRIVE</u>
City and County	<u>BENTONVILLE, BENTON COUNTY</u>
State and Zip Code	<u>ARKANSAS 72716</u>
Telephone Number	<u>479-277-7000</u>

**Defendant No. 2**

Name	<u>WALMART, INC.</u>
Job or Title (if known)	<u></u>
Street Address	<u>702 S.W. 8TH STREET</u>
City and County	<u>BENTONVILLE, BENTON COUNTY</u>
State and Zip Code	<u>ARKANSAS 72712</u>
Telephone Number	<u>479-273-6278</u>

## Defendant No. 3

Name	<u>TEKNOR APEX COMPANY</u>
Job or Title (if known)	<u>TEKNOR APEX COMPANY</u>
Street Address	<u>505 CENTRAL AVENUE</u>
City and County	<u>PAWTUCKET, PROVIDENCE COUNTY</u>
State and Zip Code	<u>RHODE ISLAND 02861</u>
Telephone Number	<u>800-556-3864</u>

## Defendant No. 4

Name	<u>TEKNOR APEX HOSE</u>
Job or Title (if known)	<u></u>
Street Address	<u>505 CENTRAL AVENUE</u>
City and County	<u>PAWTUCKET, PROVIDENCE COUNTY</u>
State and Zip Code	<u>RHODE ISLAND 02861</u>
Telephone Number	<u>800-556-3864</u>

**II. Basis for Jurisdiction**

Federal Courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in Federal Court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same state as any plaintiff.

What is the basis for Federal Court jurisdiction? *(check all that apply)*

☐ Federal question

☒ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

**A. If the Basis for Jurisdiction Is a Federal Question**

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

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**B. If the Basis for Jurisdiction Is Diversity of Citizenship**

**1. The Plaintiff(s)**

**a. If the plaintiff is an individual**

The plaintiff, (name) NICOLE R. AZOCAR PRO SE, is a citizen of the State of (name) CALIFORNIA.

**b. If the plaintiff is a corporation**

The plaintiff, (name) \_\_\_\_\_, is incorporated under the laws of the State of (name) \_\_\_\_\_, and has its principal place of business in the State of (name) \_\_\_\_\_.

*(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)*

**2. The Defendant(s)**

**a. If the defendant is an individual**

The defendant, (name) \_\_\_\_\_, is a citizen of the State of (name) \_\_\_\_\_. Or is a citizen of (foreign nation) \_\_\_\_\_.

b. If the defendant is a corporation

The defendant, SAM'S WEST, INC. D/B/A SAM'S CLUB, is  
incorporated under the laws of the State of (name)  
ARKANSAS, and has its principal place of  
business in the State of (name) ARKANSAS. Or is  
incorporated under the laws of (foreign nation)  
, and has its principal place of  
business in (name) .

*(If more than one defendant is named in the complaint, attach an  
additional page providing the same information for each additional  
defendant.)* SEE ATTACHMENT A

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant  
owes or the amount at stake—is more than \$75,000, not counting interest  
and costs of court, because *(explain)*:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as  
briefly as possible the facts showing that each plaintiff is entitled to the damages or other  
relief sought. State how each defendant was involved and what each defendant did that  
caused the plaintiff harm or violated the plaintiff's rights, including the dates and places  
of that involvement or conduct. If more than one claim is asserted, number each claim  
and write a short and plain statement of each claim in a separate paragraph. Attach  
additional pages if needed.

SEE ATTACHMENT B

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

ACTUAL DAMAGES ARE SACRAMENTO COUNTY EMS - \$400.00 AND \$14,404

SUTTER ER. I CLAIM PUNITIVE AND EXEMPLARY DAMAGES OF \$875,000.00 DUE T

THE LIFELONG PERMANENT PHYSICAL DAMAGE TO MY NOSE AND PERMANE

EMOTIONAL DAMAGES DUE TO THE PERMANENT CHANGE IN AND ALTERATION C

MY APPEARANCE THAT HAVE RESULTED FROM MY BROKEN NOSE AND 05/11/2021 FALL

#### V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: MAY 10, 2023

Signature of Plaintiff

Printed Name of Plaintiff

  
NICOLE R. AZOCAR-NEWLOVE

## **ATTACHMENT A**

### **ADDITIONAL DEFENDANT(S)**

B. If the Basis for Jurisdiction Is Diversity of Citizenship  
(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

#### **DEFENDANT #2**

b. If the defendant is a corporation

The defendant, (*name*) WALMART, INC., is incorporated under the laws of the State of (*name*) ARKANSAS, and has its principal place of business in the State of (*name*) ARKANSAS. Or is incorporated under the laws of (*foreign nation*) \_\_\_\_\_, and has its principal place of business in (*name*) \_\_\_\_\_

#### **DEFENDANT #3**

b. If the defendant is a corporation

The defendant, (*name*) TEKNOR APEX COMPANY, is incorporated under the laws of the State of (*name*) RHODE ISLAND, and has its principal place of business in the State of (*name*) RHODE ISLAND. Or is incorporated under the laws of (*foreign nation*) \_\_\_\_\_, and has its principal place of business in (*name*) \_\_\_\_\_

#### **DEFENDANT #4**

b. If the defendant is a corporation

The defendant, (*name*) TEKNOR APEX GARDEN HOSE, is incorporated under the laws of the State of (*name*) RHODE ISLAND, and has its principal place of business in the State of (*name*) RHODE ISLAND. Or is incorporated under the laws of (*foreign nation*) \_\_\_\_\_, and has its principal place of business in (*name*) \_\_\_\_\_

## **ATTACHMENT B**

### **III. STATEMENT OF CLAIM**

ON 05/11/2021 PLAINTIFF SUFFERED BLUNT FORCE INJURIES TO HER HEAD AND FACE INCLUDING A FRACTURED NOSE AND A CONCUSSION (IMPACT #1) AND A SEVERE CONTUSION ABOVE HER LEFT EYEBROW AND FOREHEAD (IMPACT #2) THE SECOND IMPACT INCREASED THE SEVERITY OF THE CONCUSSION SUSTAINED IN IMPACT #1. PLAINTIFF WAS UNABLE TO PUT HER HANDS OR ARMS OUT TO PROTECT HERSELF AND LANDED FLAT ON HER FACE. THE FORCE OF THE FALL (IMPACT #1) ON THE ASPHALT DRIVEWAY WAS SO GREAT THAT IT FRACTURED PLAINTIFF'S NOSE. THEN HER FACE BOUNCED (IMPACT #2) OFF THE ASPHALT CAUSING A SEVERE CONTUSION TO THE LEFT SIDE OF HER FOREHEAD AND ABOVE HER LEFT EYEBROW. BOTH IMPACT #1 AND #2 LED TO A SEVERE CONCUSSION..

PLAINTIFF'S INJURIES OCCURRED DUE TO A FALL DURING THE REGULAR USE OF THE MEMBER'S MARK 120' EXTRA LONG KINK RESISTANT PROFESSIONAL HOSE. THE HOSE WAS PURCHASED FROM DEFENDANT SAM'S WEST D/B/A SAM'S CLUB WAREHOUSE STORE. THE FIRST TIME PLAINTIFF USED THE HOSE, MANUFACTURED BY DEFENDANT TEKNOR APEX COMPANY AND TEKNOR APEX GARDEN HOSE, SHE SUFFERED TRAUMATIC BLUNT FORCE INJURIES.

PLAINTIFF'S INJURIES OCCURRED AS SHE WAS WALKING FORWARD WITH THE HOSE IN HER OUTSTRETCHED RIGHT HAND WHEN DEFENDANT'S KINK RESISTANT HOSE KINKED, COILED, AND TWISTED ON THE GROUND AROUND HER FEET AND ANKLES CAUSING HER TO TRIP AND FALL.

AS A DIRECT RESULT OF THE FALL, PLAINTIFF SUFFERED PERMANENT PHYSICAL AND EMOTIONAL INJURIES. PLAINTIFF STATES HER APPEARANCE IS PERMANENTLY ALTERED AND CHANGED AND SHE DOESN'T RECOGNIZE THE FACE LOOKING BACK AT HER IN THE MIRROR. FOR SEVERAL WEEKS AND MONTHS AFTER THE FALL PLAINTIFF HAD BLACK, BLUE AND YELLOW BRUISING OF HER FACE, EYES AND NOSE ALONG WITH, SWELLING OF HER ENTIRE FACE, PAIN, MEMORY LOSS, DIZZINESS AND HEADACHES. PLAINTIFF SUFFERS FROM PTSD AS A RESULT OF THE FALL. PLAINTIFF STATES WHEN SHE LOOKS INTO A MIRROR SHE REMEMBERS THE "CRUNCH" SOUND HER NOSE MADE WHEN IT HIT THE ASPHALT AND THE HOLLOW SOUND OF HER FACE HITTING THE ASPHALT A SECOND TIME "LIKE A PUMPKIN DROPPED ON THE GROUND". BECAUSE THERE IS A WIDE LUMP/BUMP ABOVE THE HEALED FRACTURE PLAINTIFF'S FACE NO LONGER LOOKS LIKE HER OWN. PLAINTIFF HAS DIFFICULTY WEARING PRESCRIPTION AND READING GLASSES DUE TO THE HEALED NOSE FRACTURE.

PLAINTIFF REQUIRES PRESCRIPTION GLASSES AND READING GLASSES TO CORRECT HER VISION. HER ABILITY TO WEAR GLASSES HAS BEEN PERMANENTLY IMPAIRED BY THE FRACTURE OF HER NOSE. WEARING GLASSES ABOVE THE BUMP CAUSE DISTORTED VISION. GLASSES WORN BELOW THE BUMP SLIDE DOWN CAUSING HER TO FREQUENTLY PUSH THEM UP AND DOWN HER NOSE. GLASSES WORN ON THE LUMP/BUMP CREATED BY THE HEALED FRACTURE CAUSE PAIN TO HER NOSE.

WALMART INC. OWNS AND OPERATES SAM'S CLUB WHO SOLD THE MEMBER'S MARK PROFESSIONAL KINK RESISTANT 120' HOSE UNDER THE SAM'S WEST D/B/A SAM'S CLUB STORE BRAND. SAFETY STANDARDS AND PRODUCT QUALITY STANDARDS FOR WALMART, INC. AND SAM'S WEST D/B/A SAM'S CLUB ARE REGULATED UNDER ITS "STANDARDS AND GENERAL REQUIREMENTS" AND "STANDARDS FOR SUPPLIERS". THE HOSE WAS SUPPLIED BY AND MANUFACTURED BY TEKNOR APEX COMPANY AND TEKNOR APEX GARDEN HOSE DIVISION WITH THE "KINK RESISTANT" TECHNOLOGY FOR SALE TO WALMART, INC. UNDER THE SAM'S WEST D/B/A SAM'S CLUB MEMBER'S MARK BRAND LABEL AND FALLS UNDER DEFENDANT WALMART, INC., AND SAM'S CLUB "STANDARDS FOR SUPPLIERS". THE "KINK RESISTANT" LABEL ON THE HOSE PACKAGING IS MISLEADING AND INCLUDES NO WARNING OR ALERT THAT THE HOSE IS STILL PRONE TO KINKING, COILING AND TWISTING DESPITE THE "KINK RESISTANT" LABELING.

AT NO TIME DURING THE DESIGN OF, MANUFACTURING OF, THE PACKAGING OF, THE DISTRIBUTION OF, NOR DURING THE SALE OF TO THE PUBLIC DID ANY OF THE DEFENDANTS ADD ANY SAFETY WARNING LABEL(S), STICKER(S), OR LANGUAGE TO THE PRODUCT OR THE PRODUCT PACKAGING WARNING THAT THE HOSE WAS A POTENTIAL TRIP AND/ OR FALL HAZARD.

EACH OF THE DEFENDANT(S) FAILED IN THEIR DUTY TO WARN THAT THE KINK RESISTANT HOSE WOULD STILL KINK, COIL, AND TWIST LEADING TO A POTENTIAL TRIP AND/OR FALL HAZARD. NONE OF THE DEFENDANTS ADDED ANY SAFETY LABEL, STICKER, NOR LANGUAGE TO THE HOSE NOR ITS PACKAGING WARNING OF THE POTENTIAL TRIP AND FALL HAZARD POSED BY THE NORMAL USE OF THE "KINK RESISTANT HOSE". NONE OF THE DEFENDANT'S WEBSITES PROVIDE ANY PRODUCT INFORMATION OR PRODUCT SAFETY WARNINGS ABOUT THE USE OF THEIR HOSES AND/OR THEIR INHERENT SAFETY ISSUE AND THEIR ASSOCIATED POTENTIAL FOR DANGER.